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10/525,445

02/23/2005

Tsuyoshi Minato

114208-040

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04/19/2007

EVEREST INTELLECTUAL PROPERTY LAW GROUP

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

04/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/525,445

Applicant(s)

MINATO ET AL.

Examiner

James R. Brittain

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3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I drawn to an integrally molded surface fastener in the reply filed on January 23, 2007 is acknowledged.

Claims 10-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on January 23, 2007.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 9 are rejected under 35 U.S.C. 112; second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 indicates that there can be but "one" engaging piece (line 2). When there is but one engaging piece the limitation "and extend in opposite directions each other" (line 4) is

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unclear because "each other" is of unknown scope when there is but one engaging piece. It is not clear what is being referred to. As to claim 9, the limitation "the molding direction" (line 4) renders the claim indefinite because it lacks antecedent basis and it is unclear how every molding process would have a clearly defined molding direction.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-6, 8 and 9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kurtz, Jr. et al. (US 6996880).

Kurtz, Jr. et al. (figures 9, 10B, 12A) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion constituted by a pair of wing-like thin plates 402 which intersect with the second engaging portion 404 comprising a hook piece with a front end curved toward the base member. As to claim 4, the claim only requires that the second engaging portion have only one engaging piece and the device of Kurtz, et al. has one. In regard to claim 6, this only requires directions to intersect with a horizontal section of the pillar in a same direction.

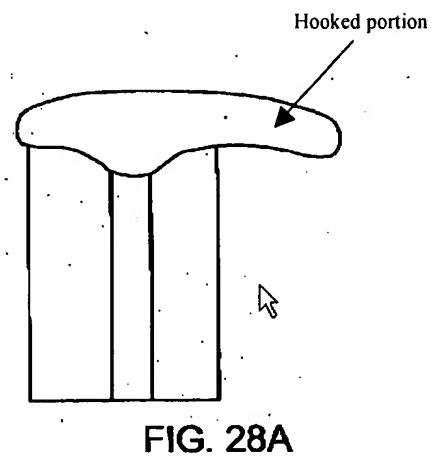
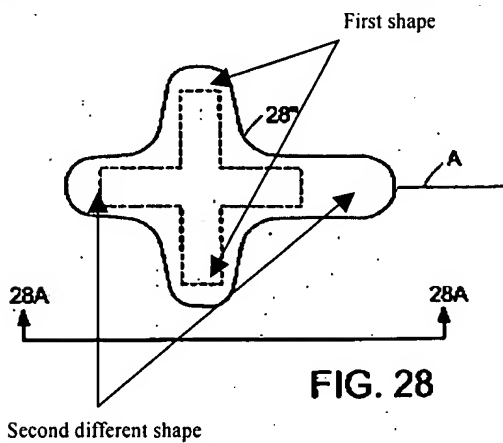
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However, the directions are not structural limitations and the “same direction” is unspecified, so the pillar has a horizontal section that extends in the first and second direction. In regard to claim 9, the process of formation doesn’t impart a necessary structural limitation over and above that of Kurtz, Jr. et al. and the device of Kurtz, Jr. et al. could be formed with a preliminary directional molding step.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claims 1, 2, 4-6, 8 and 9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Armela et al. (US 20030106188).

Armela et al. (figures 28, 28a) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion constituted by a pair of wing-like thin plates which intersect with the second engaging portion comprising a hook piece with a front end curved toward the base member.



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As to claim 4, the claim only requires that the second engaging portion have only one engaging piece and the device of Armela et al. has one. In regard to claim 6, this only requires directions to intersect with a horizontal section of the pillar in a same direction. However, the directions are not structural limitations and the "same direction" is unspecified, so the pillar has a horizontal section that extends in the first and second direction. In regard to claim 9, the process of formation doesn't impart a necessary structural limitation over and above that of Armela et al. and the device of Armela et al. could be formed with a preliminary directional molding step.

Claims 1, 2, 4-6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Provost (US 5887320).

Provost (figures 9, 17) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion 72 constituted by a pair of wing-like thin plates which intersect with the second engaging portion comprising a subjacent hook piece with a front end curved toward the base member. As to claim 4, the claim only requires that the second engaging portion have only one engaging piece and the device of Provost has one. In regard to claim 6, this only requires directions to intersect with a horizontal section of the pillar in a same direction. However, the directions are not structural limitations and the "same direction" is unspecified, so the pillar has a horizontal section that extends in the first and second direction. In regard to claim 9, the process of formation doesn't impart a necessary structural limitation over and above that of Provost and the device of Provost could be formed with a preliminary directional molding step.

Claim Rejections - 35 USC § 103

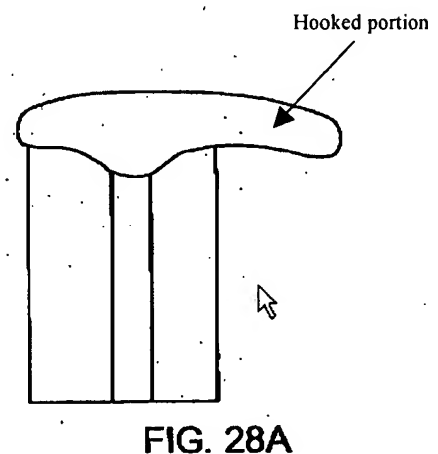
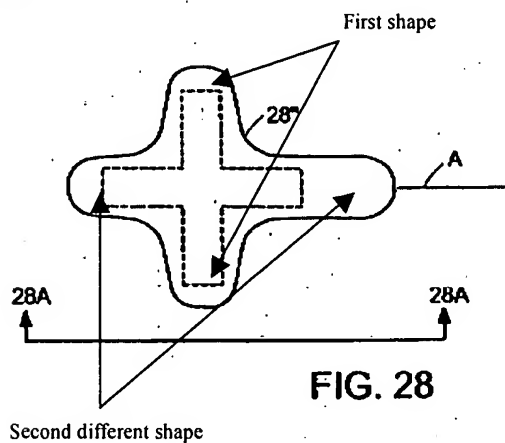
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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armela et al. (US 20030106188).

Armela et al. (figures 28, 28a) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion constituted by a pair of wing-like thin plates which intersect with the second engaging portion comprising a hook piece with a front end curved toward the base member.



The difference is that the central top face of the engaging head isn't slightly indented. However, it would have been obvious to slightly indent the central top face of the engaging head in view of

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figures 27, 27A of Armela et al. which teaches that it is desirable to do so in order to provide catches [0227].

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. (US 6996880) or Provost (US 5887320) either one of which taken in view of Armela et al. (US 20030106188).

Kurtz, Jr. et al. (figures 9, 10B, 12A) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion constituted by a pair of wing-like thin plates 402 which intersect with the second engaging portion 404 comprising a hook piece with a front end curved toward the base member. Similarly, Provost (figures 9, 17) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion 72 constituted by a pair of wing-like thin plates which intersect with the second engaging portion comprising a subjacent hook piece with a front end curved toward the base member. The difference is that the central top face of the engaging head of the fasteners to both Kurtz, Jr. et al. and Provost isn't slightly indented. However, it would have been obvious to slightly indent the central top face of the fasteners of either Kurtz et al. or Provost in view of the engaging head in view of figures 27, 27A of Armela et al. which teaches that it is desirable to do so in order to provide catches [0227].

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. (US 6996880), Provost (US 5887320) or Armela et al. (US 20030106188) any one of which taken in view of Clune (US 6162040).

Kurtz, Jr. et al. (figures 9, 10B, 12A) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion constituted by a pair of wing-like thin plates 402 which intersect with the second engaging portion 404 comprising a hook piece with a front end curved toward the base member. Similarly, Provost (figures 9, 17) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion 72 constituted by a pair of wing-like thin plates which intersect with the second engaging portion comprising a subjacent hook piece with a front end curved toward the base member and Armela et al. (figures 28, 28a) teaches an integrally molded surface fastener of synthetic resin in which a number of fine engaging elements are molded integrally on a surface of a flat base member with a pillar having a predetermined height and an engaging head composed of a first engaging portion constituted by a pair of wing-like thin plates which intersect with the second engaging portion comprising a hook piece with a front end curved toward the base member. The difference it that the first engaging portions are flat. It would have been obvious to have the ends of the first engaging portions droop in view of Clune (figures 8, 9) teaching that it is well known to have the ends of all four engaging portions droop in order to improve the ability to engage cooperating structure.

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Conclusion

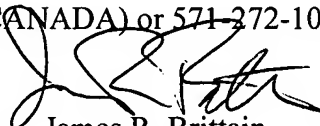
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Japanese publication 2000-225650 (figures 4, 5) teaches pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065.

The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James R. Brittain
Primary Examiner
Art Unit 3677

JRB